

## **REMARKS/ARGUMENTS**

Claims 1, 2, 4, 6, 9-11, 13, 15, and 18-36 remain pending in this amendment. Claims 5 and 14 have been cancelled. No new claims have been added. Claims 1, 6, 10, and 15 have been amended.

Applicant believes that this response addresses the Examiner's rejection and that any changes do not introduce new matter into the specification, limit the scope of the claims or result in any prosecution history estoppel.

### **CLAIM REJECTIONS**

#### **Non-Statutory, Non-Obviousness-Type Double Patenting**

##### **Claims 1-36**

The Examiner has rejected claims 1-2, 4-6, 9-11, 13-16, 18-26 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6, 12, 14-16, 18-23 of co-owned U.S. Patent No. 6,792,516.

While applicants respectfully disagree with the Examiner's characterization of the claims of the present application as being patentably indistinct from the claims of U.S. Patent No. 6,792,516 applicants have nonetheless, in the interest of furthering prosecution of the instant application, filed a terminal disclaimer in compliance with 37 CFR 1.321(c).

#### **35 USC § 102(b)**

##### **Claims 1-14**

The Examiner has rejected claims 1-2, 4-6, 9-11, and 13-14 under 35 USC § 102(b) as being anticipated by Lewchuck (U.S. patent # 6,058,461).

Regarding currently amended independent Claim 1, Applicants assert that Lewchuck fails to disclose a first counter to monitor the predefined first period and a second counter to monitor the predefined second period as claimed. Applicants note that currently amended independent Claims 6 and 10 recite similar limitations.

In conclusion, Applicants assert that independent Claims 1, 6 and 10 and their associated dependant Claims are not anticipated by Lewchuck and respectfully request that the Examiner withdraw his rejection of Claims 1-2, 4, 6, 9-11, and 13 under 35 U.S.C. 102(b).

**35 USC § 103(a)**

**Claims 15-18**

The Examiner has rejected Claims 15-18 under 35 USC § 103(a) as being unpatentable over Lewchuck.

Applicants respectfully disagree with the Examiner's assertion that Lewchuck "discloses the invention as claimed...(except)...(Lewchuck) does not particularly disclose a computer readable medium" (Office Action of June 17, 2005; page 6). For the same reasons as discussed in detail above with regard to the rejection of Claims 1-2, 4, 6, 9-11, and 13, Applicants assert that Lewchuck does not disclose the invention as claimed in currently amended independent Claim 15 regardless of whether or not Lewchuck discloses a computer readable medium or a computer readable medium would have been obvious to one of ordinary skill in the art.

In conclusion, Applicants assert that independent Claim 15 and the associated dependant Claims 16-18 are patentable over Lewchuck and respectfully request that the Examiner withdraw his rejection of Claims 15-18 under 35 U.S.C. 103(a).

**Claims 19-36**

The Examiner has rejected Claims 19-36 in the application as being unpatentable over Lewchuk in view of lizuka. Applicants respectfully traverse the Examiner's rejection.

With regard to independent Claims 19, 24, 28, and 33, Applicants assert that neither Lewchuk nor lizuka, either alone or in combination, disclose or suggest a memory controller configured to receive memory requests and corresponding priorities from a microprocessor, ***wherein the memory controller is configured to interrupt servicing of higher priority requests after a predefined number are processed to process lower priority requests for a predefined period of time.*** The Examiner

asserts that, while Lewchuk “does not particularly disclose the memory controller is configured to interrupt servicing of higher priority requests after a predefined number are processed to process lower priority requests for a predefined period of time” (Office Action; page 7), lizuka nonetheless corrects this admitted deficiency of Lewchuk because lizuka “discloses interrupting high priority servicing-data-request to allow passing/servicing of nonpriority or low priority data request in order to prevent or keep the nonpriority or low priority data request from starvation” (Office Action; page 8). While not acceding to the Examiner’s assertion regarding the disclosure of lizuka, Applicants note that lizuka fails to disclose or suggest the claimed elements of a memory controller configured to interrupt servicing of higher priority requests **after a predefined number are processed** to process lower priority requests **for a predefined period of time**. Thus, Applicants respectfully assert that lizuka fails to correct the deficiencies of Lewchuk thereby failing to disclose or suggest all elements of Claims 19, 24, 28, and 33. As a result, Applicants assert that neither Lewchuk nor lizuka, either alone or in combination, can provide basis for a *prima facie* case of obviousness to support the rejection of Claims 19, 24, 28, and 33 under 35 U.S.C. § 103(a). Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of Claims 19, 24, 28, and 33.

Applicants note that Claims 20-23 depend from Claim 19; Claims 25-27 depend from Claim 24; Claims 29-32 depend from Claim 28; and Claims 34-36 depend from Claim 33. As a result, in addition to any other bases for patentability, Applicants respectfully submit that Claims 20-23, 25-27, 29-32, and 34-36 are patentable over the cited references by virtue of at least this dependence. Thus, Applicants respectfully request that the obviousness rejections of Claims 20-23, 25-27, 29-32, and 34-36 also be withdrawn.

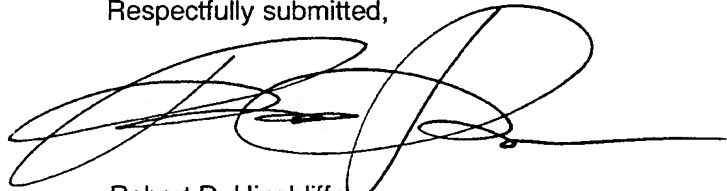
## CONCLUSION

In view of the foregoing, it is respectfully asserted that all of the claims pending in this patent application are in condition for allowance.

Should it be determined that an additional fee is due under 37 CFR §§1.16 or 1.17, or any excess fee has been received, please charge that fee or credit the amount of overcharge to deposit account #02-2666.

If the Examiner has any questions, he is invited to contact the undersigned at (503) 264-6473. Reconsideration of this patent application and early allowance of all the claims is respectfully requested.

Respectfully submitted,



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